11-03-06

# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

plication of: Art Unit: (N/A) Shlomo BEN-HAIM, et al. Examiner: (N/A) Washington, D.C. Serial No.: 10/561,740 Filed: December 20, 2005 September 7, 2006 HEPATIC DEVICE FOR TREATMENT Docket No.: METACURE-OR GLUCOSE DETECTION 233411

## INFORMATION DISCLOSURE STATEMENT [IDS]

Honorable Commissioner of Patents and Trademarks Washington, D.C. 20231

Sir:

This Information Disclosure Statement is submitted in accordance with 37 C.F.R. 1.97, 1.98, and it is requested that the information set forth in this statement and in the listed documents be considered during the pendency of the above-identified application, and any other application relying on the filing date of the above-identified application or cross-referencing it as a related application.

[X] 1. This IDS should be considered, in accordance with 37 C.F.R. 1.97, as it is filed:

(Check one of the boxes A-D)

A. within three months of the filing date of the above-identified national application or within three months of the entry into the national stage of the above-identified international application.

[X] B. before the mailing date of a first office action on the merits.

C. after (A) and (B) above, but before final rejection or allowance, and Applicants have made the necessary certification (box "i" below) or paid the necessary fee (box "ii" below).

(check one of the boxes "i" and "ii" below:)

[] i. Counsel certifies that, upon information and belief, each item of information listed herein was either (a) cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS; or (b) was not cited in a communication from a foreign patent office in a counterpart foreign application and, to the knowledge of undersigned after making reasonable inquiry, was not known to any individual designated in 1.56(c) more than three months prior to the filing of this IDS.

[] ii. A check for the fee set forth in 1.17(p), presently believed to be \$240, is enclosed (check no).
[] D. after (A), (B) and (C) above, but before payment of the issue fee: Applicant petitions under 37 C.F.R. 1.97(d) for the consideration of this IDS. A check for the fee set forth in §1.17(i), presently believed to be \$130 is enclosed (check no
[] 2. In accordance with 37 C.F.R. 1.98, this IDS includes a list (e.g., form PTO-1449) of all patents, publications, or other information submitted for consideration by the office, either incorporated into this IDS or as an attachment hereto. A copy of each document listed is attached, except as explained below.
(check boxes A and/or B and fill in blanks, if appropriate.)  [] A. Document(s) is (are) deemed substantially cumulative to document(s), and, in accordance with 1.98(c), only a copy of each of the latter documents is
enclosed.
[] B. Certain documents were previously cited by or submitted to the Office in the following prior application(s), which are relied upon under 35 U.S.C. 120:
[insert serial numbers and filing dates of prior applications]
Applicant identifies these documents by attaching hereto copies of the forms PTO-892 and PTO-1449 from the files of the prior application(s) or a fresh PTO-1449 listing these documents, and request that they be considered and made of record in accordance with 1.98(d). Per 37 CFR 1.98(d), copies of these documents need not be filed in this application.
[] 3. Documents is (are) not in the English language. In accordance with 1.98(c), Applicant states:
[] An English translation of each document (or of the pertinent portions thereof), or a copy of each corresponding English-language patent or application, or English-language abstract (or claim) is enclosed.
[] A concise explanation of the relevance of document(s) is found in the attached search report (see reply to Comment 68 in the preamble to the final rules; 1135 OG 13 at 20).
[] A concise explanation of the relevance of document(s) is set forth as follows: [Insert concise explanation of relevance]
[] A concise explanation of the relevance of document(s) can be found on page(s) of the specification.
A concise explanation of document(s) can be found on the attached sheet.

- 4. No explanation of relevance is necessary for documents in the English language (see reply to Comments 67 and 68 in the preamble to the final rules; 1135 OG 13 at 20).
  - [] 5. Other information being provided for the examiner's consideration follows:
- 6. In accordance with 37 C.F.R. 1.97(g) and (h), the filing of this IDS should not be construed as a representation that a search has been made or that information cited is, or is considered to be, material to patentability as defined in §1.56 (b), or that any cited document listed or attached is (or constitutes) prior art. Unless otherwise indicated, the date of publication indicated for an item is taken from the face of the item and Applicant reserves the right to prove that the date of publication is in fact different.

# CROSS REFERENCE UNDER 37 C.F.R. §1.78 TO RELATED APPLICATIONS

Pursuant to 37 C.F.R. § 1.78, Applicant notes that the above-identified patent application may be related to the following U.S. Patent Applications:

Respectfully submitted,

November 2, 2006

Registration No. 26,723

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PTO/SB92 (08-00) Approved for use through 10/31/2002. OMB 0651-0031

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der the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

# Certificate of Express Mail Under 37 CFR 1.10

I hereby certify that this correspondence is being deposited with the United States Postal Service Express Mail under 37 CFR 1.10 on the date indicated below and is addressed to:

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EV793702776US November 2, 2006 on Express Mail Label Date usldui Geraldine Gress

> Wolf, Block, Schorr and Solis-Cohen LLP 250 Park Avenue 9th Floor New York, New York 10177-0030 Telephone: 212.986.1116; Facsimile: 212.986.0604

Note: Each paper must have its own certificate of mailing, or this certificate must identify each submitted paper.

Applicant:

Shlomo Ben-Haim, et al.

Serial No:

10/561,740

For:

Filing Date: December 20, 2005

Hepatic Device For Treatment Or Glucose Detection Attachments: (1) Information Disclosure Statement (3 pages);

(2) IDS Citation (18 pages) w/cited references;

(3) Acknowledgement Postcard

Burden Hour Statement: This form is estimated to take 0.03 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U. S. Patent and Trademark Office, Washington, DC 20231, DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

Gedeon

#### U.S. PATENT DOCUMENTS

Examiner's Initials		DOCUMENT NO.	DATE	NAME	CLASS	SUB	FILING DATE
	AA	6,093,167	07-2000	Houben, et al.			
	AB	6,261,280	07-2001	Houben, et al.			
	AC	5,919,216	07-1999	Houben, et al.			
	AD	5,741,211	04-1998	Renirie, et al.			

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AE	WO 01/91854					
AF	WO 00/53257					
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#### OTHER ART (Including Author, Bills, Pertinent Pages, Etc.)

	AH	Jaremko, et al., "Advances toward the implantable artificial pancreas for treatment of diabetes", Diabetes Care, 21(3), March 1998.
	ΑI	Lamb F.S. et al., "Cyclosporine augments reactivity of isolated blood vessels", Life Sciences, 40, pp. 2571-2578, 1987.
	AJ	Johansson B. et al., "Static and dynamic components in the vascular myogenic response to passive changes in length as revealed by electrical and mechanical recordings from the rat portal vein", Circulation Research, 36, pp. 76-83, 1975.
	AK	Zelcer E. et al., "Spontaneous electrical activity in pressurized small mesenteric arteries", Blood Vessels, 19, pp. 301-310, 1982.
	AL	Schobel H.P. et al., "Preeclampsia – a state of sympathetic overactivity", New England Journal of Medicine, 335, pp. 148-1485, 1996.
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FXAMINE	D	pp. 1515-1520, April 2001.  Brian T. Gedeon/ (02/22/2008)   Brian T. Gedeon/ (02/22/2008)

EXAMINEK:

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

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Date:	September	7,	2006
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FORM PTO-1449 (Colb)	ATTY DOCKET NO. METACURE-233411	SERIAL NUMBER 10/561,740
LIST OF PATENTS AND PUBLICATIONS FOR APPLICANTS' INFORMATION STATEMENT	APPLICANT Shlomo BEN-HAIM, et al.	EXAMINER (N/A)
	FILING DATE	GROUP ART UNIT
	December 20, 2005	(N/A)

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	AA	5,101,814	04-1992	Palti			
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	AC	5,368,028	11-1994	Palti			
	AD	5,314,463	05-1994	Camps, et al.			

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	AG	Gomis A. et al., "Oscillatory patterns of electrical activity in mouse pancreatic				
	AG	islets of Langerhans recorded in vivo", Pflugers Archiv European Journal of				
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	AH	Soria B. et al., "Cytosolic calcium oscillations and insulin release in pancreatic				
	Ап	islets of Langerhans", Diabetes Metab., 24(1), pp. 37-40, February 1998.				
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		274(4 Pt 1): C1174-1184, April 1998.				
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	AK	alpha-, beta-, and delta-cells within intact islets of Langerhans in the mouse",				
		Journal of Physiology, 517(Pt. 1), pp. 85-93, May 1999.				
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	December 20, 2005	(N/A)

#### **U.S. PATENT DOCUMENTS**

Examiner's Initials		DOCUMENT NO.	DATE	NAME	CLASS	SUB	FILING DATE
	AA	5,795,304	08-1998	Sun, et al.			
	AB	6,454,699	09-2002	Forsell			
-	AC	4,485,805	12-1984	Foster, Jr.			
	AD	5,938,669	08-1999	Klaiber, et al.			
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	AK	pharmaceuticals as therapeutic agents for the treatment of diabetes", Current				
		Pharmaceutical Design, 2001, 7, 1399-1412.				
	l					
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		Company of March				

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Date: September 7, 2006

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	AA	6,129,685	10-2000	Howard			
	AB	4,823,808	04-1989	Clegg, et al.			
	AC	5,868,141	02-1999	Ellias			
	AD	6,067,991	05-2000	Forsell			
	AE	5,601,604	02-1997	Vincent			
	AF	5,234,454	08-1993	Bangs			
	AG	4,133,315	01-1979	Berman, et al.			
	AH	4,416,267	11-1983	Garren, et al.			
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	AM	Meda et al., Quarterly J. Exper. Physiol. 69:719-735 (1984).							
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	AA	5,449,368	09-1995	Kuzmak			
	AB	5,226,429	07-1993	Kuzmak			
	AC	5,074,868	12-1991	Kuzmak			
	ÁD	5,690,691	11-1997	Chen, et al.			
	AE	5,423,872	06-1995	Cigaina			
	AF	5,188,104	02-1993	Wernicke, et al.			
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	AL	ddiestone et al., J. Membrane Biol. 77:1-141 (1984).					
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EXAMINI	EXAMINER: /Brian T. Gedeon/ (02/22/2008) ATE CONSIDERED:						
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	December 20, 2005	(N/A)

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	AB	6,026,326	02-2000	Bardy			
	AC	3,411,507		Wingrove			
	AD	5,979,449	11-1999	Steer			
	AE	4,975,682	12-1990	Kerr, et al.			
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AJ	EP 0057048	08-1982	EUROPE			
AK	EP 0129483	12-1984	EUROPE			

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	December 20, 2005	(N/A)

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Examiner's Initials		DOCUMENT NO.	DATE	NAME	CLASS	SUB	FILING DATE
	AA	6,334,073	12-2001	Levine			
	AB	5,514,175	05-1996	Kim, et al.			
	AC	5,792,210	08-1998	Wamubu, et al.			
	AD	6,609,025	08-2003	Barrett, et al.			
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	AF	2004/0147816	07-2004	Policker, et al.			
	AG	2004/0162595	08-2004	Foley			
	AH	6,658,297		Loeb			
	AI	6,092,528		Edwards			

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	DOCUMENT NO.	DATE	COUNTRY	CLASS	SUB	TRANS- LATION
 AJ	WO 05/037152					
AK	WO 02/089655					

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EXAMINI	ER:	Brian T. Gedeon/ (02/22/2012) TE CONSIDERED:
EXAMINI	60	tial if reference considered, whether or not citation is in conformance with MPEP 9; Draw line through citation if not in conformance and not considered. Include by of this form with next communication to applicant.

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	December 20, 2005	(N/A)

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Examiner's Initials		DOCUMENT NO.	DATE	NAME	CLASS	SUB	FILING DATE
	AA	5,690,691	311-2-11	Chen			
	AB	6,449,511		Mintchev			
	AC	6,243,607		Mintchev			
-	AD	2002/0026141		Houben			
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	AF	5,704,368		Asano, et al.			
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	DOCUMENT NO.	DATE	COUNTRY	CLASS	SUB	TRANS- LATION
AJ	WO 05/041749					
AK	WO 04/069330					

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EXAMINI	ER: /E	Brian T. Gedeon/ (02/22/20) ATE CONSIDERED:
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	AB	6,684,104		Gordon			
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	AG	6,658,297		Loeb			
	AH	5,861,014	******	Familoni			
	ΑI	6,083,249		Familoni			

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AJ	WO 04/096337					
AK	WO 03/020365					

# OTHER ART (Including Author, Bills, Pertinent Pages, Etc.)

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	December 20, 2005	(N/A)

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AL	EP 1 447 052			1		

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EXAMIN	IER: /Brian T. Gedeon/ (02/22/2008)ATE CONSIDERED:							
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	ΑН	6,918,906								
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		DOCUMENT NO.	DATE	COUNTRY	CLASS	SUB	TRANS- LATION
1	AJ	WO 05/087310					
A	AK	WO 04/066903					

	AL	
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EXAMINI	E <b>R</b> : /	Brian T. Gedeon/ (02/22/200 <b>B)ATE CONSIDERED:</b>
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Examiner's Initials		DOCUMENT NO.	DATE	NAME	CLASS	SUB	FILING DATE
	AA	2005/0107829					
	AB	5,247,938					
	AC	5,105,812					
	AD	6,826,428					
	AE	2005/0075654					
	AF	5,551,425					
	AG	6,132,372					
***	AH	2004/0193184					
	AI	6,535,764					

### FOREIGN PATENT DOCUMENTS

	DOCUMENT NO.	DATE	COUNTRY	CLASS	SUB	TRANS- LATION
AJ	WO 05/009288					
 AK	WO 04/091361					
AL	WO 02/082968					

	AM					
EXAMINE	ER:	Brian T. Gedeon/ (02/22/2008)ATE CONSIDERED:				
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FORM PTO-1449 (Colb)	ATTY DOCKET NO. METACURE-233411	SERIAL NUMBER 10/561,740
LIST OF PATENTS AND PUBLICATIONS FOR APPLICANTS' INFORMATION STATEMENT	APPLICANT Shlomo BEN-HAIM, et al.	EXAMINER (N/A)
	FILING DATE	GROUP ART UNIT
	December 20, 2005	(N/A)

### U.S. PATENT DOCUMENTS

Examiner's Initials		DOCUMENT NO.	DATE	NAME	CLASS	SUB	FILING DATE
	AA	4,280,503		Ackerman			
	AB	3,516,412					
	AC	4,378,023		Trabucco			
<u> </u>	AD	6,216,045		Black, et al.			
**-	AE	6,363,937					
	AF	6,606,523					
	AG	2004/0158138					
	AH	2005/0203500					
	AI	2005/0183732					

### FOREIGN PATENT DOCUMENTS

	DOCUMENT NO.	DATE	COUNTRY	CLASS	SUB	TRANS- LATION
AJ	WO 05/007232					
AK	EP 144705					
AL	WO 05/037152					

	AM		
EXAMINE	E <b>R</b> : /	/Brian T. Gedeon/ (02/22/20	O®)ATE CONSIDERED:
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FORM PTO-1449 (Colb)	ATTY DOCKET NO. METACURE-233411	SERIAL NUMBER 10/561,740
LIST OF PATENTS AND PUBLICATIONS FOR APPLICANTS' INFORMATION STATEMENT	APPLICANT Shlomo BEN-HAIM, et al.	EXAMINER (N/A)
	FILING DATE	GROUP ART UNIT
	December 20, 2005	(N/A)

# U.S. PATENT DOCUMENTS

Examiner's Initials		DOCUMENT NO.	DATE	NAME	CLASS	SUB	FILING DATE
	AA	2004/0162469		Imran			
	AB	2004/008023		Imran, et al.			
	AC	2005/0021101		Chen, et al.			
	AD	6,754,536		Swoyer, et al.			
	AE	6,600,953		Flesler, et al.			
	AF	2004/0059393		Policker, et al.			
	AG	6,415,178		Ben-Haim, et al.			
	AH	6,571,127	###	Ben-Haim, et al.			
	AI	6,895,279		Loeb, et al.			

## FOREIGN PATENT DOCUMENTS

	DOCUMENT NO.	DATE	COUNTRY	CLASS	SUB	TRANS- LATION
AJ	WO 05/023081					
AK	WO 04/112563					
AL	WO 02/089655					

	AM		
EXAMINE	ER: /	Brian T. Gedeon/ (02/22/20	OB)ATE CONSIDERED:
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Date:	September	7,	2006
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FORM PTO-1449 (Colb)	ATTY DOCKET NO. METACURE-233411	SERIAL NUMBER 10/561,740
LIST OF PATENTS AND PUBLICATIONS FOR APPLICANTS' INFORMATION STATEMENT	APPLICANT Shlomo BEN-HAIM, et al.	EXAMINER (N/A)
	FILING DATE	GROUP ART UNIT
	December 20, 2005	(N/A)

# U.S. PATENT DOCUMENTS

Examiner's Initials		DOCUMENT NO.	DATE	NAME	CLASS	SUB	FILING DATE
	AA	4,000,745		Goldberg, et al.			
	AB	4,357,946		Dutcher, et al.			
	AC	4,313,448		Stokes			
	AD	4,177,818		De Pedro			
	AE	2005/0183732		Edwards			
	AF	2005/0107829		Edwards, et al.			
	AG	2003/0220678		Tronnes, et al.			
	AH	2004/0088023		Imran, et al.			
	ΑI	2005/0065505		Ryan			

### FOREIGN PATENT DOCUMENTS

	DOCUMENT NO.	DATE	COUNTRY	CLASS	SUB	TRANS- LATION
AJ	WO 05/041749					
AK	WO 05/007237					
AL	WO 05/016181					

	AM							
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Date: September 7, 2006

FORM PTO-1449 (Colb)	ATTY DOCKET NO. METACURE-233411	SERIAL NUMBER 10/561,740	
LIST OF PATENTS AND PUBLICATIONS FOR APPLICANTS' INFORMATION STATEMENT	APPLICANT Shlomo BEN-HAIM, et al.	EXAMINER (N/A)	
	FILING DATE	GROUP ART UNIT	
	December 20, 2005	(N/A)	

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Examiner's Initials		DOCUMENT NO.	DATE	NAME	CLASS	SUB	FILING DATE
	AA	5,247,938		Silverstein, et al.	:		
	AB	6,754,536		Swoyer, et al.			
	AC	6,876,885		Swoyer, et al.			
	AD	6,745,079		King			
·	<b>Α</b> Ε	6,852,110	· <del></del>	Roy, et al.			
	AF	3,737,579		Bolduc			
	AG	4,010,758		Rockland, et al.	-		
	АН	4,235,246		Weiss			
	AI	4,452,254		Goldberg, et al.			

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	DOCUMENT NO.	DATE	COUNTRY	CLASS	SUB	TRANS- LATION
AJ	WO 04/096337	-				
AK	JP 2003319945					
AL	WO 03/020365					

	AM							
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Date: September 7, 2006

FORM PTO-1449 (Colb)	ATTY DOCKET NO. METACURE-233411	SERIAL NUMBER 10/561,740	
LIST OF PATENTS AND PUBLICATIONS FOR APPLICANTS' INFORMATION STATEMENT	APPLICANT Shlomo BEN-HAIM, et al.	EXAMINER (N/A)	
	FILING DATE	GROUP ART UNIT	
	December 20, 2005	(N/A)	

#### U.S. PATENT DOCUMENTS

Examiner's Initials		DOCUMENT NO.	DATE	NAME	CLASS	SUB	FILING DATE
	AA	2002/0103424		Swoyer, et al.			
	AB	2005/0055038		Kelleher, et al.			
	AC	6,363,937		Hovda, et al.			
	AD	2004/0158138		Kilcoyne, et al.			
·	AE	2005/0203500		Saadat			
	AF	2005/0075654		Kelleher			
	AG	2004/0193184		Laufer, et al.			
	AH	5,423,872		Cigaina			
18.00	AI	5,837,006		Ocel, et al.			

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	DOCUMENT NO.	DATE	COUNTRY	CLASS	SUB	TRANS- LATION
AJ	JP 2003/319945	-				
AK						

# OTHER ART (Including Author, Bills, Pertinent Pages, Etc.)

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	AM							
EXAMINE	EXAMINER: /Brian T. Gedeon/ (02/22/2009ATE CONSIDERED:							
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ALL REFERENCES CONSIDERED EXCEPT WHERE LINED THROUGH. /BTG/

FORM PTO-1449 (Colb)	ATTY DOCKET NO. METACURE-233411	SERIAL NUMBER 10/561,740
LIST OF PATENTS AND PUBLICATIONS FOR APPLICANTS' INFORMATION STATEMENT	APPLICANT Shlomo BEN-HAIM, et al.	EXAMINER (N/A)
	FILING DATE	GROUP ART UNIT
	December 20, 2005	(N/A)

# U.S. PATENT DOCUMENTS

Examiner's Initials		DOCUMENT NO.	DATE	NAME	CLASS	SUB	FILING DATE
	AA	6,826,428		Chen, et al.			
	AB	2005/0192615		Torre, et al.			
	AC	2005/0143784		Imran			
	AD	6,535,764		Imran, et al.			
	AE	6,606,523		Jenkins			
	AF	6,041,258		Cigaina, et al.			
	AG	2003/0195600		Tronnes, et al.			
	AH	2005/0209653		Herbert, et al.			
	ΑI	6,952,613		Swoyer, et al.			

# FOREIGN PATENT DOCUMENTS

	DOCUMENT NO.	DATE	COUNTRY	CLASS	SUB	TRANS- LATION
AJ						
AK						

# OTHER ART (Including Author, Bills, Pertinent Pages, Etc.)

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	AM	
EXAMINE	ER: /E	rian T. Gedeon/ (02/22/2008)ATE CONSIDERED:

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